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SENATE BILL 3008 By
Rochelle

HOUSE BILL 2648
By West

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter
35, Part 1, relative to private protective services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-35-102, is amended by adding the
following new subdivisions thereto:

() "Bodyguard" means a person who is under contract as unarmed or armed
security with an individual, proprietary security organization or contract security company
who has the responsibility to protect a person or persons or property;

() "Bouncer" means a person who is unarmed or armed that is under contract for
an individual, proprietary security organization or contract security company who has the
responsibility to protect a person or persons or property;

() "Law enforcement officer" means a person who derives plenary or special law
enforcement powers (such as power of arrest) from, and is a full-time employee of a
federal, state or local government agency as defined by Tennessee peace officers
standards and training commission (P.O.S.T.);

() "Sworn peace officer" means a person who derives plenary or special law
enforcement powers (such as power of arrest) from, and is a full-time employee of a
federal, state or local government agency as defined by Tennessee peace officers
standards and training commission (P.O.S.T.);

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() "Parking attendant" means a person whose responsibility is to only assist in the direction and parking of vehicles and has no duty or responsibility to protect person's property as a security officer/guard as defined herein;

() "Doorman" means a person who tends a door taking tickets or checking authority to enter an establishment, concert, music, play, athletic event or any other place where a ticket, fee or permission is required, and has no responsibility as a security officer/guard as defined by this chapter;

() "Event staff" means a person who assists special events, shows, concerts, etc; who does not perform the duties of a security officer/guard as defined in this chapter;

() "Public safety officer" means a person who derives plenary or special law enforcement powers (such as power of arrest) from, and is a full-time employee of a federal, state or local government agency as defined by Tennessee peace officers standards and training commission (P.O.S.T.);

() "Executive protection" means a person who is under contract as unarmed or armed security with an individual, proprietary security organization or contract security company who has the responsibility to protect a person's property;

() "Security protection specialist" means a person who is under contract as unarmed or armed security with an individual, proprietary security organization or contract security company who has the responsibility to protect a person's property;

() "Night watchman" means an individual employed by a contract security company or a proprietary security organization whose primary duty is to perform any function of a security guard and patrol service;

() "Valet" means a person who, only as a courtesy of an employer, parks customers' cars or assists customers into establishments and does not perform the duties of a security officer/guard or patrol service;

() "Floor walker" means a person who is hired to walk the floors of retail or wholesale businesses, or to check merchandise or the condition of merchandise or the condition of the establishment, or to observe conduct of employees and who does not perform the duties of a security officer/guard;

() "Escorts" means a person who escorts another person or persons and does not perform the duties of a security officer/guard;

() "Bounty hunter" means a person who is hired or who is acting on their own to hunt persons who are wanted for violations of the law. Unless such persons meet the requirements of a sworn full-time law enforcement officer, they must meet the requirements of this chapter;

() "Public relations personnel" means a person who works with the public on a one-on-one basis to assist for some particular reason, and who does not perform the duties of a security officer/guard;

() "Chaperon" means a person who escorts another person or persons and does not perform the duties of a security officer/guard;

() "Ticket Taker" means a person who tends a door taking tickets or checking authority to enter an establishment, concert, music, play, athletic event or any other place where a ticket, fee or permission is required, and has no responsibility as a security officer/guard as defined by this chapter;

() "Loss Prevention" means a person who is under contract as unarmed or armed with an independent, proprietary security organization or contract security company who is responsible to protect persons and/or property, take precaution against the theft of or destruction of property from a wholesale/retail establishment and deter, detain or arrest others for the theft or other violations of local, state or federal laws.

() "I.D. checkers" means a person who tends a door taking tickets or checking authority to enter an establishment, concert, music, play athletic event or any other place

where a ticket, fee or permission is required, and has no responsibility as a security officer/guard as defined by this chapter;

() "Courtesy officer" means a person who is under contract with an individual, proprietary security organization, contract security company or any complex where persons reside, shop, eat or visit; who does not enforce laws/regulations of this state and does not have the responsibility to protect persons or property, and whose only duties are to assist others in a courteous way. Such duties shall include, but not be limited to lockouts, rent notices, pool closings, etc. and who does not meet any part of the definition of a security officer/guard;

() "Lot attendants" means a person whose responsibility is to only assist in the direction and parking of vehicles and has no duty or responsibility to protect person's property as a security officer/guard as defined herein; and

() "Department" means the department of commerce and insurance;

SECTION 2. Tennessee Code Annotated, Section 62-35-103(a), is amended by adding the following language at the end of subsection (a):

Private entities contracting with governmental entities for the care, supervision and/or transportation of inmates. This exemption shall in no way authorize government contracts for the care, supervision and/or transportation of inmates. Any person who cares for, supervises or transports inmates who may carry (firearms, electronic control devices, stun guns, defense chemical sprays, aerosol control sprays, CS, CN gas or pepper spray, or any other tool or weapon) that may require certification to use, must complete training by a certified state instructor/trainer, peace officers standards and training instructor/trainer, or any other instructor/trainer who may be recognized by the department. Any person who does not leave the bounds of their facility may carry such tools or weapons (excluding firearms) and be certified by on-site personnel without meeting the requirements of this act. Persons who transport or move inmates using

public streets or thoroughfares, or whose place of employment is in any location where the general public may be must be certified and trained in the use of all such tools or weapons that they may have in their possession or to which they have access.

SECTION 3. Tennessee Code Annotated, Section 62-35-103(a), is further amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) A government officer or employee professing official duties other than those defined as a security officer/guard and patrol service unless each person can show that such person has received:

(A) Peace officer standards and training commission certification that is current and valid; or

(B) A minimum of forty (40) hours P.O.S.T. training from a law enforcement training facility;

SECTION 4. Tennessee Code Annotated, Section 62-35-103(a), is further amended by deleting subdivision (9) in its entirety and by substituting instead the following:

(9) A correction officer/prison guard who is a full time employee of a federal, state or local government agency while performing these duties for their employers/agency only;

SECTION 5. Tennessee Code Annotated, Section 62-35-103(b), is amended by deleting subdivision (1) in its entirety.

SECTION 6. Tennessee Code Annotated, Section 62-35-103(b), is amended by deleting subdivision (2) in its entirety.

SECTION 7. Tennessee Code Annotated, Section 62-35-103(b), is amended by adding a new subdivision thereto, as follows:

() It is the desire of the general assembly that unarmed and armed security officers/guards whose primary duties involve contact with the public have training in the

areas of legal powers and limitations, domestic violence, officer safety, and emergency procedures as deemed necessary by the department.

SECTION 8. Tennessee Code Annotated, Section 62-35-103(b), is amended by adding the following new subdivisions thereto:

() (A) The provisions of this chapter and rules and regulations shall not apply to anyone working for trade shows, events, traveling concerts, music festivals, car shows, rodeos, boat shows or other shows or concerts approved by the department, who has employees who are full-time security personnel who are trained and certified in another state, and who are in the state of Tennessee on a short temporary stay to complete their business.

(B) If events or show(s) seek to hire local security assistance the local security personnel must meet all of the requirements of this chapter.

() The provisions of this chapter do not apply to any citizen employed by a business or a manager and/or owner in retail/wholesale establishments who observes a violation of state or local laws and who exercises such person's right under Tennessee law to make a citizen's arrest, and such person was not hired as a security officer or such person's primary duties and responsibilities are not to detect or deter crime.

() It is the desire of the general assembly that all certified trainers/instructors understand their moral and civil obligations when they place their name on a certificate or form stating that a person has met all the requirements and is now trained and certified as the law requires in the state of Tennessee, and that they understand they can and will be held accountable, criminally and civilly liable for any type of false or misleading information statements or information, misconduct, falsifying training certificate or forms that state the person has met requirements, but requirements were not met under the law.

SECTION 9. Tennessee Code Annotated, Section 62-35-110, is amended by deleting subsections (a) and (b) in their entirety, by adding the following new subsections, and by relettering the existing subsections (c) and (d) accordingly:

(a) A contract security company or proprietary security organization license, or renewal thereof, shall be valid for a period of two (2) years from the date of issuance. The commissioner shall provide each licensee with a renewal application form sixty (60) days prior to the expiration of the license upon request from the licensee or proprietary security organization.

(b) The fee for timely renewal of a contract security company shall be in accordance with the schedule promulgated by the commissioner. A penalty fee as prescribed by the commissioner will be assessed on any renewal application postmarked after the expiration date of the license.

(c) The fee for the timely renewal of a license for a proprietary security organization shall be in accordance with the schedule promulgated by the commissioner. A penalty fee as prescribed by the commissioner will be assessed on any renewal application postmarked after the expiration date of the license.

SECTION 10. Tennessee Code Annotated, Section 62-35-114, is amended by inserting the following language after the third sentence:

The certificates shall provide that the insurance is for armed or unarmed security officers/guards or both and the condition, type and location of work that is covered or not covered under the insurance certificate.

SECTION 11. Tennessee Code Annotated, Section 62-35-114, is further amended by designating the existing language as subsection (a) and by adding the following new subsections thereto:

(b) Any instructor/trainer who instructs, trains or teaches for the public or security officer/guards as individuals or contract security companies or proprietary security

organizations shall retain a certificate of insurance evidencing general liability coverage for the negligent act or acts of the principal insured and/or his/her agents operating in the course and scope of employment for bodily injury, and proprietary damage, with endorsements for personal injury, libel, slander, training or instructions to unarmed security officers/guards, training or instruction to armed security officers/guards, and to the public with firearms and must also have endorsements for instruction and training on any approved firing range, in the minimum amount of three hundred thousand dollars (\$300,000) for bodily or personal injury and one hundred thousand dollars (\$100,000) for proprietary damage;

(c) Any certified instructor/trainer who may instruct, train or teach security officers/guards or the public with baton, nightsticks, any type of defense sprays such as but not limited to (CS, CN gas, pepper or mace, stun devices, electronic control devices, or any other device or defensive weapon) as may be prescribed as approved by the commissioner must also retain a certificate of insurance evidencing general liability coverage for the negligent act or act of the principal insured or his/her agents operating in the course and scope of employment for bodily injury and proprietary damage, with endorsement for personal injury, libel, slander, training or instruction to unarmed or armed security officers/guards and to the public with regard to any of the items in this subsection.

(d) Such insurance certificates shall be available for inspection during normal business hours upon the request of the commissioner, the duly appointed and identified representative(s) or any employee or employer, or a person with concern, reason or need to inspect or validate such insurance certificate. The certificates shall provide that the insurance shall not be modified or cancelled without thirty (30) days prior notice to the commissioner. All persons required to be insured by this chapter must be insured by

a carrier approved in the state in which the insurance has been purchased or approved in this state.

(e) Instructor trainer insurance requirements shall only apply to instructor trainers who instruct, train or teach as a full time or part time business. Such requirements shall not apply to instructors/trainers who do not teach or instruct outside their full time employer who is a contract security company or proprietary security organization. If instructor/trainers are hired by proprietary security organizations or contract security companies on a part time basis and the instructor/trainer trains or instructs personnel for more than one (1) organization or business or for individuals not yet hired by a contract security company or proprietary security organization that meets the requirements of this chapter to become security officers. The instructor/trainer must comply with the insurance requirements of this chapter.

SECTION 12. Tennessee Code Annotated, Section 62-35-115, is amended by adding the following new subdivision thereto:

(d) It is unlawful for any individual to train, teach, or instruct any certification course or class unless such individual meets all requirements of this chapter.

SECTION 13. Tennessee Code Annotated, Section 62-35-118, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) Prior to issuance of the registration card, and within thirty (30) days of employment the applicant must complete at least eight (8) hours of general training administered by a certified instructor/trainer who meets the requirements of this chapter, and must pass an examination covering at least the following subjects:

(1) Orientation: one (1) hour;

(A) Introduction of instructors/trainer(s);

(B) Class overview; and

(C) Explain reason of rules and regulations of the department;

(2) Legal process and limitations of a security officer/guard: two (2) hours;

(A) Explain and define Tennessee Code Annotated, Title 62,
Chapter 35;

(B) Explain and define Tennessee Code Annotated, Titles 39 and
Title 40 and federal laws that affect security officer/guards or companies;
and

(C) Domestic violence laws and requirements concerning security
officer/guards;

(3) Emergency procedures: Two (2) hours;

(A) General first aid;

(B) Firewatch procedures;

(C) Bomb threat and search procedures;

(D) Assisting law enforcement agencies; and

(E) Disaster plans;

(4) General duties: Two (2) hours;

(A) Report writing;

(B) Patrol procedures;

(C) Officer survival; and

(D) Liability;

(5) Testing: one (1) hour;

(A) minimum of fifty (50) questions which will all pertain to above
section;

(B) Any student or applicant who has a literacy or language
problem will be assisted in testing and training procedures; and

(C) All reports, copies of certificates and testing materials will be
kept on file by instructor/trainer for a minimum of five (5) years; and

(6) For applicants for private security officer/guard registration who will carry a club, stun gun, chemical spray, night stick, or other less than lethal device, the commissioner shall require appropriate training specific to such device by a certified trainer who is certified to instruct for such specific device. It shall be the employers' responsibility to keep training records of their employees for each specific device. The security officer/guard shall also have in such person's possession a certification card issued by an instructor/trainer who is certified to instruct/train in the legal use of such specific device and shall exhibit such card upon demand by the commissioner or the commissioner's duly authorized agent or any full-time law enforcement officer.

SECTION 14. Tennessee Code Annotated, Section 62-35-118, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b)(1) Complete a minimum of eight (8) additional classroom hours of firearms training, administered by a certified instructor trainer, and pass an examination concerning at least the following subjects:

(A) Legal and liability issues in the use of a firearm: Four (4) hours;

(i) Explain and define Tennessee Code Annotated, Title 62, Chapter 35;

(ii) Explain and define Tennessee Code Annotated, Titles 39 and 40;.

(iii) Explain and define all federal laws and regulations of possession and ownership of firearms and ammunition;

(iv) Explain and define Tennessee's self-defense laws; and

(v) Explain and define the use of deadly force in Tennessee;

(B) Handling of a firearm: Three (3) hours;

(i) Proper carry procedures and holsters;

(ii) Safe retention procedures;

(iii) Sight procedure and alignment;

(iv) Firearm nomenclature; and

(v) Firearm operation and function;

(C) Safety and maintenance: One (1) hour;

(i) Safe firearm handling;

(ii) Firearm storage at home, work, and transporting; and

(iii) Cleaning and care of a firearm;

(2) Complete a minimum of six (6) hours of marksmanship, survival and stressfire training administered by an instructor/trainer who is certified to instruct such topics with each specific firearm used in training, and achieve a minimum of seventy percent (70%) on any approved silhouette target course.

(3) Firing range training for firearms:

(A) Range procedure, rules and safety;

(B) Demonstrating and practice of loading and unloading of all firearms used in training;

(C) Dry firing;

(D) Weapon retention procedures;

(E) Malfunction drills;

(F) Drawing from duty holster and from concealment;

(G) Proper and safe movement and stances with each type of firearm used for training;

(H) Operation of revolvers and their problems; and

(I) Operation of pistols and their problems.

SECTION 15. Tennessee Code Annotated, Section 62-35-118, is further amended by deleting subsection (c) in its entirety and by substituting instead the following:

(c) A statement/certificate from a certified trainer certifying the satisfactory completion of training required by this section shall be submitted to the department within thirty (30) days of employment.

SECTION 16. Tennessee Code Annotated, Section 62-35-118(d), is amended by deleting subdivision (1) in its entirety.

SECTION 17. Tennessee Code Annotated, Section 62-35-122, is amended by deleting subsection (d) in its entirety and by substituting instead the following:

(d) Every unarmed security officer/guard shall as a prerequisite for the renewal of such person's registration card complete eight (8) hours of training administered by a certified instructor/trainer in the subject listed in § 62-35-118 pertaining to unarmed training.

(e) Every armed security officer/guard shall as a prerequisite for the renewal of such persons registration card:

(1) Complete eight (8) hours of refresher training administered by a certified instructor/trainer in the subjects listed in § 62-35-118 pertaining to armed security training; and

(2) Complete a minimum of six (6) hours of requalification on an approved firing range in the use of all firearms such person will use in the course of his/her employment by achieving a minimum of seventy percent (70%) on any silhouette target course approved by the department.

SECTION 18. Tennessee Code Annotated, Section 62-35-125(a), is amended by deleting the third sentence in its entirety and by substituting instead the following:

With proper certification, an unarmed or armed security officer/guard may carry any other type weapon to include, but not be limited to (clubs, batons, stun guns, electronic control devices, chemical sprays, aerosol control sprays, CS, CN gas or pepper sprays, or any other tool or weapon) the commissioner may prescribe.

SECTION 19. Tennessee Code Annotated, Section 62-35-126, is amended by adding the following as a new subsection thereto:

(h) All certified instructor/trainers shall supply to the department every two (2) years a completed instructor development program which is preapproved by the department. Any certified instructor/trainer who does not comply with instructor development programs will not have their instructor/trainer certificate renewed until such contract requirements are met. If requirements are not met within the three (3) month grace period such person must reapply with the department.

SECTION 20. Tennessee Code Annotated, Section 62-35-131(a), is amended by deleting subdivision (1) in its entirety and by substituting instead the following:

(1) No licensee, proprietary security organization or registrant shall be required to obtain any such authorization, permit, written directive, or license from, or pay any fee to, or post a bond in any municipality, county or other political subdivision of this state to engage in any business or activity as a security officer/guard regulated under this chapter.

SECTION 21. Tennessee Code Annotated, Section 62-35-131, is amended by deleting subsection (b) in its entirety and by substituting instead the following:

(b) Any person not bonded and sworn as a full-time law enforcement officer as defined in peace officer standards and training, but who is properly registered as an armed security officer/guard as defined by this chapter shall not carry a firearm unless such person has in his/her possession a certified armed card issued by the state of Tennessee department of commerce and insurance which is current and valid. On the front of this department issued card shall be a current picture of the holder, holders name, and expiration of issued card, and a statement from the department of commerce and insurance as to legal use of card. On the back of such armed certification card shall be holder's physical description, date of birth, social security number and company for

which holder is legally certified to carry a firearm for while performing duties for such listed company and a statement that certification for firearms are on file at the company and the department, and any other information that the department may deem necessary may be added to the front and or back of armed certification card.

(c) The armed certification carry card shall be issued in a wallet-sized and the size of Tennessee issued drivers license and shall be permanently laminated or otherwise made tamper proof.

(d) If a card for armed certification is issued and holder does not have a valid registered employer with the department, the card will have all previous information with the exception of the company's or employer's name. Such card shall contain the following language in bold red letters:

NOT VALID TO CARRY FIREARM.

(e) Any holder of an armed certification card will not have armed right to carry completed on his/her card without first having written statement on registered company's letterhead signed by company official who has the authority to sign such request.

(f) Any holder of an armed certification card will have the right to have more than one armed certification card with different company names, but only by meeting all requirements of this chapter.

(g) Any new or replacement or authorized card will be issued by the department for a fee of twenty-five dollars (\$25.00).

(h) Upon expiration, change of employment/employer, revocation or suspension of an individuals armed certification card it shall be immediately returned to the department within five (5) working days. The department shall at all times reserve the right to refuse to issue, revoke or suspend the authorization to carry a firearm at such time the department finds just cause which indicates the persons/holders disqualification to carry a firearm.

(i) If the department denies a written directive, the commissioner or his designee shall notify the applicant/holder in writing within thirty (30) days of such determination. The written notice shall be mailed with the words "confidential and personal" on such notice and shall state the basis for the department's denial of the written directive. The notice shall include a statement that the applicant/holder may bring an action to challenge the denial of an application within thirty (30) days. The statement shall also indicate that an applicant/holder may be granted an additional thirty (30) days to challenge such denial if a written request to challenge the denial is received by the department within thirty (30) days of the receipt by the applicant/holder of the written notice.

(j) Any company listed on any and all of applicant/holder armed certification card(s) will also be notified in writing by the department at the same time as the applicant/holder is notified. The written notice to the applicant/holder employer will be labeled "confidential" and shall state the specific factual basis for the department's determination. The written notice shall include a statement that the applicant/holder has been notified of this action and that the applicant/holder may bring action to challenge the denial or revocation of the charges. Such written notice shall also include a statement to the company(s) that the applicant/holder cannot continue to work as an unarmed or armed security officer/guard until the actions have been finalized.

(k) Anyone intentionally failing to return a written directive within five (5) days to the department commits a Class A misdemeanor.

SECTION 22. Tennessee Code Annotated, 62-35-134(b), is amended by deleting subdivision (5) in its entirety and by substituting instead the following:

(5) Make any statement or action which would reasonably cause another person to believe that such person or security officer/guard function as a sworn peace officer or public or government official; or

SECTION 23. This act shall take effect upon becoming a law, the public welfare requiring it.